REGULATION OF LAP DANCING CLUBS

Response to Home Office Consultation on Transitional Arrangements

Please find below Leeds City Council's response to the consultation on transitional arrangements relating to the regulation of sex encounter venues.

Page 11, Paragraph 24
What are your views on the proposal that the new regime should apply to existing operators and that the transitional provisions should not provide for them to be given preferential treatment when their application for a sex establishment licence comes to be determined?

Under the Licensing Act 2003 Local Authorities have been unable to control the spread of lap dancing clubs as there is no ability to restrict numbers or the location of premises. The only recourse has been by representation from interested parties or responsible authorities on the four licensing objectives. As these premises historically do not report crime and disorder, deal with nuisance issues in-house and are age restricted, it is very difficult to make representations under the Licensing Act 2003.

As a consequence Leeds City Council initially saw an increase in these types of premises when the Licensing Act 2003 came in effect going from five clubs with grandfather rights to eight clubs currently operating. In particular two of the clubs are located opposite historical buildings. There is no ability to make representation on these grounds under the existing legislation.

Applying the new regime to existing operators allows the council to re-evaluate each of these premises according to a policy which can take numbers and locality into effect and will give local residents the ability to have their say on this basis. The council believes that this is the intention of the Government.

Additionally under the Licensing Act 2003 the conditions applied to the licence had to relate to one or more of the licensing objectives. The manner of sex establishments such as lap dancing clubs do not easily relate to the licensing objectives and so the ability to place meaningful conditions on the licence, for example relating to dancer's conduct and non-contact policies, would be welcomed.

However there is concern that should the council decide to refuse a licence for one of the existing operators, they would be open to legal challenge under Article 1, Protocol 1 of the European Convention on Human Rights. Also, the applicant would have a right of appeal under the 1982 Act and in this way either the council's policy or the council's decision would be challenged. This would prove costly in resources even if the council's decision is upheld.

Page 12, paragraph 31
What are your views on the proposed time periods between the 1st, 2nd and 3rd appointed dates and do you believe that a transitional period of 12 months in total is appropriate?

It is unclear at this point in the consultation as to who would set the date for the 2nd appointed date. There would be concern if the first appointed date is provided by the Secretary of State as it may not allow adequate time for the council to formulate and consult upon a policy. Leeds would need a minimum of six months to adequately produce, consult and adopt a policy.

There is concern that if there are appeals arising from the determinations of applications made by new or existing operators during the first 6 months, then these will not have been heard by the time the council is accepting applications after the 2nd appointed date. Although each application is determined on a case by case basis, the council would intend to produce a policy that may specify a maximum number, or undesirable locations for sex encounter venues. The council may be in a position where it is determining applications for new sex encounter venues before the outcome of the appeals made by existing operators is known. This could lead to more sex establishment licences being granted than is desirable.

Page 12, paragraph 33
Do you agree with the proposed approach for identifying existing operators?

There are a number of premises in the Leeds district that have "lap dancing" conditions applied to their licence, but who are not currently providing "relevant entertainment". The cost of applying for a sex encounter venue licence under the 82 Act would not be cost effective for these premises. However, as there is the ability for local authorities to restrict the numbers of sex establishment licences, these premises would be held at a disadvantage if they do not apply in the first six months of transition. We would be concerned about a legal challenge if these premises are excluded from the transitional arrangements, and there was an advantage given to existing operators.

Page 13, paragraph 39
What are your views on the proposal for dealing with conditions on existing premises licences/club premises certificates that relate specifically to the provision of "relevant entertainment"?

This seems fair and proportionate.

Page 14, paragraph 44
What are your views on the proposals relating to the existing sex encounter establishment category? Also are you aware of any type of venue that currently requires a licence for a sex encounter establishment that would not require a licence for a sex encounter venue as defined in Clause 26 of the Policing and Crime Bill?

As the original provision under the 82 Act was to provide regulation to premises that offered sexually explicit entertainment, and the new provision proposed by the Government provide regulation for almost exactly the same type of premises it seems fair and proportionate that the new provisions would replace the provisions under the Greater London Council (General Powers) Act 1986.

There are a number of business types that do not strictly fall under the definition of a sex encounter venue and it would be useful if the Home Office could give clarification:

Sex chat lines provide verbal sexual stimulation and are currently entirely unlicensed.

There are a number of premises that offer "facilities", such as male only saunas. The display of R18 videos in these premises are regulated under the Licensing Act 2003, but the premises itself provides the facilities that allow men to be sexually stimulated, even if the premises themselves do not provide nude, or semi nude dancing.

Consideration may also be given to Hooters type bars or commercially run swingers clubs.

Page 15, paragraph 47
Do you believe that section 22 of the London Local Authorities Act 2004 should be amended in light of the amendments being made in the Policing and Crime Bill?

Whilst section 22 of the London Local Authorities Act 2004 does not apply to Leeds City Council the council would like to make the following comment. This section does not explicitly mention sex establishments, but instead refers to the offence of soliciting persons to attend premises which provide live music, recorded music and performance of dance and entertainment facilities. It also refers to unlicensed alcohol premises and premises used for public dancing or music which are not licensed under the London Government Act 1963.

Any legislation that creates confusion, as this obviously has, should be amended to provide clarity.

Page 15, paragraph 50
What are your views on the proposal to commence these provisions in April 2010?

Providing the council has the ability to set the 1st appointed date by adopting the provisions of the 82 Act, then there should be enough time to fully consult and adopt a policy before doing so.

Page 15, paragraph 53
Do you agree that the suggested costs and benefits set out in the Impact Assessment are a reasonable estimate of the potential costs and benefits? If not, can you provide evidence of what any likely costs and benefits should be?

The Impact Assessment appears to be projecting a present value cost of the Licensing Regime over ten years to be between £14.2 and £16.4 million. Without seeing more detailed breakdown it is hard to make comment on these figures.